



January 25, 2006

SENATE BILL No. 162

DIGEST OF SB 162 (Updated January 20, 2006 10:21 am - DI 110)

Citations Affected: IC 27-1.

Synopsis: Commercial policyholder. Defines "commercial policyholder" to include a business, nonprofit, or governmental entity that purchases a commercial policy. Removes certain requirements concerning exempt commercial policyholders. Changes reporting requirements for insurers concerning commercial policyholders. Repeals a provision that require an insurance company that insures a public entity as an exempt commercial policyholder to maintain a certain rating.

Effective: July 1, 2006.

Paul, Delph

January 9, 2006, read first time and referred to Committee on Insurance and Financial Institutions.

January 24, 2006, amended, reported favorably — Do Pass.

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SB 162—LS 6739/DI 97+



January 25, 2006

Second Regular Session 114th General Assembly (2006)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2005 Regular Session of the General Assembly.

SENATE BILL No. 162

A BILL FOR AN ACT to amend the Indiana Code concerning insurance.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 27-1-15.6-22 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 22. ~~(a)~~ An insurance
3 producer may not receive compensation for the sale, solicitation,
4 negotiation, or renewal of any insurance policy issued to any person or
5 entity for whom the insurance producer, for a fee, acts as a consultant
6 for that policy unless:

7 (1) the insurance producer provides to the insured a written
8 agreement in accordance with section 23(c) of this chapter; and

9 (2) the insurance producer discloses to the insured the following
10 information prior to the sale, solicitation, negotiation, or renewal
11 of any policy:

12 (A) The fact that the insurance producer will receive
13 compensation for the sale of the policy.

14 (B) The method of compensation.

15 ~~(b) The requirements of this subsection are in addition to the~~
16 ~~requirements set forth in subsection (a). A risk manager described in~~
17 ~~IC 27-1-22-2.5(b)(2) shall, before providing risk management services~~

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to an exempt commercial policyholder (as defined in IC 27-1-22-2.5); disclose in writing to the exempt commercial policyholder whether the risk manager will receive or expects to receive any commission, fee, or other consideration from an insurer in connection with the purchase of a commercial insurance policy by the exempt commercial policyholder. However, if the risk manager charges the exempt commercial policyholder a fee for risk management services, the risk manager shall disclose in writing to the exempt commercial policyholder the specific amount of any commission, fee, or other consideration that the risk manager may receive from an insurer in connection with the purchase of the policy. The risk manager shall, before providing the risk management services, obtain from the exempt commercial policyholder a written acknowledgment of the disclosures made by the risk manager to the exempt commercial policyholder under this subsection.

SECTION 2. IC 27-1-15.6-23 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 23. (a) An individual or corporation shall not engage in the business of an insurance consultant until a consultant license has been issued to the individual or corporation by the commissioner. However, a consultant license is not required for the following:

- (1) An attorney licensed to practice law in Indiana acting in the attorney's professional capacity.
- (2) A duly licensed insurance producer or surplus lines producer.
- (3) A trust officer of a bank acting in the normal course of the trust officer's employment.
- (4) An actuary or a certified public accountant who provides information, recommendations, advice, or services in the actuary's or certified public accountant's professional capacity.

(b) An application for a license to act as an insurance consultant shall be made to the commissioner on forms prescribed by the commissioner. An applicant may limit the scope of the applicant's consulting services by stating the limitation in the application. The areas of allowable consulting services are:

- (1) Class 1, consulting regarding the kinds of insurance specified in IC 27-1-5-1, Class 1; and
- (2) Class 2 and Class 3, consulting regarding the kinds of insurance specified in IC 27-1-5-1, Class 2 and Class 3.

Within a reasonable time after receipt of a properly completed application form, the commissioner shall hold a written examination for the applicant that is limited to the type of consulting services designated by the applicant, and may conduct investigations and propound interrogatories concerning the applicant's qualifications,

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1 residence, business affiliations, and any other matter that the
 2 commissioner considers necessary or advisable in order to determine
 3 compliance with this chapter or for the protection of the public.

4 (c) For purposes of this subsection, "consultant's fee" does not
 5 include a late fee charged under section 24 of this chapter or fees
 6 otherwise allowed by law. A consultant shall provide consultant
 7 services as outlined in a written agreement. The agreement must be
 8 signed by the person receiving services, and a copy of the agreement
 9 must be provided to the person receiving services before any services
 10 are performed. The agreement must outline the nature of the work to be
 11 performed by the consultant and the method of compensation of the
 12 consultant. The signed agreement must be retained by the consultant
 13 for not less than two (2) years after completion of the services. A copy
 14 of the agreement shall be made available to the commissioner. In the
 15 absence of an agreement on the consultant's fee, the consultant shall
 16 not be entitled to recover a fee in any action at law or in equity.

17 (d) An individual or corporation shall not concurrently hold a
 18 consultant license and an insurance producer's license, surplus lines
 19 producer's license, or limited lines producer's license at any time.

20 (e) A licensed consultant shall not:

- 21 (1) employ;
- 22 (2) be employed by;
- 23 (3) be in partnership with; or
- 24 (4) receive any remuneration whatsoever;

25 from a licensed insurance producer, surplus lines producer, or limited
 26 lines producer or insurer, except that a consultant may be compensated
 27 by an insurer for providing consulting services to the insurer.

28 (f) A consultant license shall be valid for not longer than
 29 twenty-four (24) months and may be renewed and extended in the same
 30 manner as an insurance producer's license. The commissioner shall
 31 designate on the license the consulting services that the licensee is
 32 entitled to perform.

33 (g) All requirements and standards relating to the denial, revocation,
 34 or suspension of an insurance producer's license, including penalties,
 35 apply to the denial, revocation, and suspension of a consultant license
 36 as nearly as practicable.

37 (h) A consultant is obligated under the consultant's license to:

- 38 (1) serve with objectivity and complete loyalty solely the
 39 insurance interests of the consultant's client; and
- 40 (2) render the client such information, counsel, and service as
 41 within the knowledge, understanding, and opinion, in good faith
 42 of the licensee, best serves the client's insurance needs and

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interests.

(i) ~~Except as provided in subsection (j);~~ The form of a written agreement required by subsection (c) must be filed with the commissioner not less than thirty (30) days before the form is used. If the commissioner does not expressly approve or disapprove the form within thirty (30) days after filing, the form is considered approved. At any time after notice and for cause shown, the commissioner may withdraw approval of a form effective thirty (30) days after the commissioner issues notice that the approval is withdrawn.

(j) ~~Subsection (i) does not apply to the form of a written agreement under subsection (c) that is executed by an insurance producer and an exempt commercial policyholder (as defined in IC 27-1-22-2.5).~~

SECTION 3. IC 27-1-22-2.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 2.5. (a) As used in this chapter, ~~"exempt "commercial policyholder"~~ means **an a business, nonprofit, or governmental** entity that **purchases a**

(1) ~~makes written certification to the entity's insurer on a form prescribed by the department that the entity is an exempt commercial policyholder;~~

(2) ~~has purchased the policy of commercial insurance through an insurance producer licensed under IC 27-1-15.6 or IC 27-1-15.8.~~ and

(3) ~~meets any three (3) of the following criteria:~~

(A) ~~Has a net worth of more than twenty-five million dollars (\$25,000,000) at the time the policy of insurance is issued:~~

(B) ~~Has a net revenue or sales of more than fifty million dollars (\$50,000,000) in the preceding fiscal year:~~

(C) ~~Has more than twenty-five (25) employees per individual company or fifty (50) employees per holding company aggregate at the time the policy of insurance is issued:~~

(D) ~~Has aggregate annual commercial insurance premiums, excluding any worker's compensation and professional liability insurance premiums, of more than seventy-five thousand dollars (\$75,000) in the preceding fiscal year:~~

(E) ~~Is a nonprofit or a public entity with an annual budget of at least twenty-five million dollars (\$25,000,000) or assets of at least twenty-five million dollars (\$25,000,000) in the preceding fiscal year:~~

(F) ~~Procures commercial insurance with the services of a risk manager:~~

An entity meets the written certification requirement under subdivision (1) if the entity provides a copy of a certification previously submitted

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under subdivision (1) and if there has been no significant material change in the entity's status:

(b) As used in this chapter, "risk manager" means a person qualified to assess an exempt commercial policyholder's insurance needs and analyze and negotiate a policy of insurance on behalf of an exempt commercial policyholder. A risk manager may be:

(1) a full-time employee of an exempt commercial policyholder who is qualified through education and experience or training and experience; or

(2) a person retained by an exempt commercial policyholder who holds a professional designation relevant to the type of insurance to be purchased by the exempt commercial policyholder.

SECTION 4. IC 27-1-22-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 4. (a) Every insurer shall file with the commissioner every manual of classifications, rules, and rates, every rating schedule, every rating plan, and every modification of any of the foregoing which it proposes to use.

(b) **Except as provided in subsection (m)**, the following types of insurance are exempt from the requirements of subsections (a) and (j):

(1) Inland marine risks, which by general custom of the business are not written according to manual rates or rating plans.

(2) Insurance, other than workers compensation insurance, ~~or professional liability insurance~~, issued to ~~exempt~~ commercial policyholders.

(c) Every such filing shall indicate the character and extent of the coverage contemplated and shall be accompanied by the information upon which the filer supports such filing.

(d) The information furnished in support of a filing may include:

(1) the experience and judgment of the insurer or rating organization making the filing;

(2) its interpretation of any statistical data it relies upon;

(3) the experience of other insurers or rating organizations; or

(4) any other relevant factors.

The commissioner shall have the right to request any additional relevant information. A filing and any supporting information shall be open to public inspection as soon as stamped "filed" within a reasonable time after receipt by the commissioner, and copies may be obtained by any person on request and upon payment of a reasonable charge therefor.

(e) Filings shall become effective upon the date of filing by delivery or upon date of mailing by registered mail to the commissioner, or on a later date specified in the filing.

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(f) Specific inland marine rates on risks specially rated, made by a rating organization, shall be filed with the commissioner.

(g) Any insurer may satisfy its obligation to make any such filings by becoming a member of, or a subscriber to, a licensed rating organization which makes such filings and by authorizing the commissioner to accept such filings on its behalf, provided that nothing contained in this chapter shall be construed as requiring any insurer to become a member of or a subscriber to any rating organization or as requiring any member or subscriber to authorize the commissioner to accept such filings on its behalf.

(h) Every insurer which is a member of or a subscriber to a rating organization shall be deemed to have authorized the commissioner to accept on its behalf all filings made by the rating organization which are within the scope of its membership or subscribership, provided:

- (1) that any subscriber may withdraw or terminate such authorization, either generally or for individual filings, by written notice to the commissioner and to the rating organization and may then make its own independent filings for any kinds of insurance, or subdivisions, or classes of risks, or parts or combinations of any of the foregoing, with respect to which it has withdrawn or terminated such authorization, or may request the rating organization, within its discretion, to make any such filing on an agency basis solely on behalf of the requesting subscriber; and
- (2) that any member may proceed in the same manner as a subscriber unless the rating organization shall have adopted a rule, with the approval of the commissioner:

(A) requiring a member, before making an independent filing, first to request the rating organization to make such filing on its behalf and requiring the rating organization, within thirty (30) days after receipt of such request, either:

- (i) to make such filing as a rating organization filing;
- (ii) to make such filing on an agency basis solely on behalf of the requesting member; or
- (iii) to decline the request of such member; and

(B) excluding from membership any insurer which elects to make any filing wholly independently of the rating organization.

(i) Under such rules as the commissioner shall adopt, the commissioner may, by written order, suspend or modify the requirement of filing as to any kinds of insurance, or subdivision, or classes of risk, or parts or combinations of any of the foregoing, the rates for which can not practicably be filed before they are used. Such

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orders and rules shall be made known to insurers and rating organizations affected thereby. The commissioner may make such examination as the commissioner may deem advisable to ascertain whether any rates affected by such order are excessive, inadequate, or unfairly discriminatory.

(j) Upon the written application of the insured, stating the insured's reasons therefor, filed with the commissioner, a rate in excess of that provided by a filing otherwise applicable may be used on any specific risk.

(k) An insurer shall not make or issue a policy or contract except in accordance with filings which are in effect for that insurer or in accordance with the provisions of this chapter. Subject to the provisions of section 6 of this chapter, any rates, rating plans, rules, classifications, or systems in effect on May 31, 1967, shall be continued in effect until withdrawn by the insurer or rating organization which filed them.

(l) The commissioner shall have the right to make an investigation and to examine the pertinent files and records of any insurer, insurance producer, or insured in order to ascertain compliance with any filing for rate or coverage which is in effect. The commissioner shall have the right to set up procedures necessary to eliminate noncompliance, whether on an individual policy, or because of a system of applying charges or discounts which results in failure to comply with such filing.

(m) The department may adopt rules to

(1) implement the exemption under subsection (b);

(2) impose disclosure requirements the commissioner determines are necessary to adequately protect exempt commercial policyholders; and

(3) establish the form of the report required by subsection (n).

(n) Each insurer who issues insurance to an exempt commercial policyholder shall file an annual report with the department by February 1 of each year. The annual report may not disclose the identity of an exempt commercial policyholder and must include only the following information regarding each exempt commercial policyholder:

(1) The account number, policy number, or other number used by the insurer to identify the insured;

(2) The amount of aggregate annual commercial premium;

(3) The inception date and expiration date of commercial insurance coverage provided by the insurer;

(4) The criteria in section 2.5(a)(3) of this chapter used to establish the entity as an exempt commercial policyholder.

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(o) The annual report filed under subsection (n) must be accompanied by the fee prescribed by IC 27-1-3-15(e). For purposes of calculating the required fee, each policy purchased by an exempt commercial policyholder shall be considered a product filing under IC 27-1-3-15(e).

(m) This subsection applies to an insurer that issues a commercial property or commercial casualty insurance policy to a commercial policyholder. Not more than thirty (30) days after the insurer begins using a commercial property or commercial casualty insurance:

- (1) rate;
- (2) rating plan;
- (3) manual of classifications; or
- (4) modification of an item specified in subdivision (1), (2), or (3);

the insurer shall file with the department, for informational purposes only, the item specified in subdivision (1), (2), (3), or (4). Use of an item specified in subdivision (1), (2), (3), or (4) is not conditioned on review or approval by the department. This subsection does not require filing of an individual policy rate if the original manuals, rates, and rules for the insurance plan or program to which the individual policy conforms has been filed with the department.

SECTION 5. [EFFECTIVE JULY 1, 2006] IC 27-1-20-34 IS REPEALED.

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SENATE MOTION

Madam President: I move that Senator Delph be added as coauthor of Senate Bill 162.

PAUL

 COMMITTEE REPORT

Madam President: The Senate Committee on Insurance and Financial Institutions, to which was referred Senate Bill No. 162, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 27-1-15.6-22 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 22. ~~(a)~~ An insurance producer may not receive compensation for the sale, solicitation, negotiation, or renewal of any insurance policy issued to any person or entity for whom the insurance producer, for a fee, acts as a consultant for that policy unless:

- (1) the insurance producer provides to the insured a written agreement in accordance with section 23(c) of this chapter; and
- (2) the insurance producer discloses to the insured the following information prior to the sale, solicitation, negotiation, or renewal of any policy:

- (A) The fact that the insurance producer will receive compensation for the sale of the policy.

- (B) The method of compensation.

- (b) The requirements of this subsection are in addition to the requirements set forth in subsection (a): A risk manager described in IC 27-1-22-2.5(b)(2) shall, before providing risk management services to an exempt commercial policyholder (as defined in IC 27-1-22-2.5), disclose in writing to the exempt commercial policyholder whether the risk manager will receive or expects to receive any commission, fee, or other consideration from an insurer in connection with the purchase of a commercial insurance policy by the exempt commercial policyholder. However, if the risk manager charges the exempt commercial policyholder a fee for risk management services, the risk manager shall disclose in writing to the exempt commercial policyholder the specific amount of any commission, fee, or other consideration that the risk

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manager may receive from an insurer in connection with the purchase of the policy. The risk manager shall, before providing the risk management services, obtain from the exempt commercial policyholder a written acknowledgment of the disclosures made by the risk manager to the exempt commercial policyholder under this subsection.

SECTION 2. IC 27-1-15.6-23 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 23. (a) An individual or corporation shall not engage in the business of an insurance consultant until a consultant license has been issued to the individual or corporation by the commissioner. However, a consultant license is not required for the following:

- (1) An attorney licensed to practice law in Indiana acting in the attorney's professional capacity.
- (2) A duly licensed insurance producer or surplus lines producer.
- (3) A trust officer of a bank acting in the normal course of the trust officer's employment.
- (4) An actuary or a certified public accountant who provides information, recommendations, advice, or services in the actuary's or certified public accountant's professional capacity.

(b) An application for a license to act as an insurance consultant shall be made to the commissioner on forms prescribed by the commissioner. An applicant may limit the scope of the applicant's consulting services by stating the limitation in the application. The areas of allowable consulting services are:

- (1) Class 1, consulting regarding the kinds of insurance specified in IC 27-1-5-1, Class 1; and
- (2) Class 2 and Class 3, consulting regarding the kinds of insurance specified in IC 27-1-5-1, Class 2 and Class 3.

Within a reasonable time after receipt of a properly completed application form, the commissioner shall hold a written examination for the applicant that is limited to the type of consulting services designated by the applicant, and may conduct investigations and propound interrogatories concerning the applicant's qualifications, residence, business affiliations, and any other matter that the commissioner considers necessary or advisable in order to determine compliance with this chapter or for the protection of the public.

(c) For purposes of this subsection, "consultant's fee" does not include a late fee charged under section 24 of this chapter or fees otherwise allowed by law. A consultant shall provide consultant services as outlined in a written agreement. The agreement must be signed by the person receiving services, and a copy of the agreement must be provided to the person receiving services before any services

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are performed. The agreement must outline the nature of the work to be performed by the consultant and the method of compensation of the consultant. The signed agreement must be retained by the consultant for not less than two (2) years after completion of the services. A copy of the agreement shall be made available to the commissioner. In the absence of an agreement on the consultant's fee, the consultant shall not be entitled to recover a fee in any action at law or in equity.

(d) An individual or corporation shall not concurrently hold a consultant license and an insurance producer's license, surplus lines producer's license, or limited lines producer's license at any time.

(e) A licensed consultant shall not:

- (1) employ;
- (2) be employed by;
- (3) be in partnership with; or
- (4) receive any remuneration whatsoever;

from a licensed insurance producer, surplus lines producer, or limited lines producer or insurer, except that a consultant may be compensated by an insurer for providing consulting services to the insurer.

(f) A consultant license shall be valid for not longer than twenty-four (24) months and may be renewed and extended in the same manner as an insurance producer's license. The commissioner shall designate on the license the consulting services that the licensee is entitled to perform.

(g) All requirements and standards relating to the denial, revocation, or suspension of an insurance producer's license, including penalties, apply to the denial, revocation, and suspension of a consultant license as nearly as practicable.

(h) A consultant is obligated under the consultant's license to:

- (1) serve with objectivity and complete loyalty solely the insurance interests of the consultant's client; and
- (2) render the client such information, counsel, and service as within the knowledge, understanding, and opinion, in good faith of the licensee, best serves the client's insurance needs and interests.

(i) ~~Except as provided in subsection (j);~~ The form of a written agreement required by subsection (c) must be filed with the commissioner not less than thirty (30) days before the form is used. If the commissioner does not expressly approve or disapprove the form within thirty (30) days after filing, the form is considered approved. At any time after notice and for cause shown, the commissioner may withdraw approval of a form effective thirty (30) days after the commissioner issues notice that the approval is withdrawn.

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(j) Subsection (i) does not apply to the form of a written agreement under subsection (c) that is executed by an insurance producer and an exempt commercial policyholder (as defined in IC 27-1-22-2.5)."

Page 1, line 3, strike ""exempt" and insert ""

Page 1, line 3, strike "an" and insert "**a business, nonprofit, or governmental**".

Page 1, line 3, delete ":" and insert "**purchases a**".

Page 1, strike lines 4 through 6.

Page 1, line 7, strike "(2) has purchased the".

Page 1, line 7, after "of" insert "**commercial**".

Page 1, line 8, delete "," and insert ".".

Page 1, line 8, strike "and".

Page 1, strike lines 9 through 17.

Page 2, strike lines 1 through 23.

Page 2, line 2, delete "ten".

Page 2, line 3, delete "(\$10,000)".

Page 2, after line 23, begin a new paragraph and insert:

"SECTION 4. IC 27-1-22-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 4. (a) Every insurer shall file with the commissioner every manual of classifications, rules, and rates, every rating schedule, every rating plan, and every modification of any of the foregoing which it proposes to use.

(b) **Except as provided in subsection (m)**, the following types of insurance are exempt from the requirements of subsections (a) and (j):

(1) Inland marine risks, which by general custom of the business are not written according to manual rates or rating plans.

(2) Insurance, other than workers compensation insurance, ~~or professional liability insurance~~, issued to ~~exempt~~ commercial policyholders.

(c) Every such filing shall indicate the character and extent of the coverage contemplated and shall be accompanied by the information upon which the filer supports such filing.

(d) The information furnished in support of a filing may include:

(1) the experience and judgment of the insurer or rating organization making the filing;

(2) its interpretation of any statistical data it relies upon;

(3) the experience of other insurers or rating organizations; or

(4) any other relevant factors.

The commissioner shall have the right to request any additional relevant information. A filing and any supporting information shall be open to public inspection as soon as stamped "filed" within a reasonable time after receipt by the commissioner, and copies may be

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obtained by any person on request and upon payment of a reasonable charge therefor.

(e) Filings shall become effective upon the date of filing by delivery or upon date of mailing by registered mail to the commissioner, or on a later date specified in the filing.

(f) Specific inland marine rates on risks specially rated, made by a rating organization, shall be filed with the commissioner.

(g) Any insurer may satisfy its obligation to make any such filings by becoming a member of, or a subscriber to, a licensed rating organization which makes such filings and by authorizing the commissioner to accept such filings on its behalf, provided that nothing contained in this chapter shall be construed as requiring any insurer to become a member of or a subscriber to any rating organization or as requiring any member or subscriber to authorize the commissioner to accept such filings on its behalf.

(h) Every insurer which is a member of or a subscriber to a rating organization shall be deemed to have authorized the commissioner to accept on its behalf all filings made by the rating organization which are within the scope of its membership or subscribership, provided:

- (1) that any subscriber may withdraw or terminate such authorization, either generally or for individual filings, by written notice to the commissioner and to the rating organization and may then make its own independent filings for any kinds of insurance, or subdivisions, or classes of risks, or parts or combinations of any of the foregoing, with respect to which it has withdrawn or terminated such authorization, or may request the rating organization, within its discretion, to make any such filing on an agency basis solely on behalf of the requesting subscriber; and
- (2) that any member may proceed in the same manner as a subscriber unless the rating organization shall have adopted a rule, with the approval of the commissioner:

(A) requiring a member, before making an independent filing, first to request the rating organization to make such filing on its behalf and requiring the rating organization, within thirty (30) days after receipt of such request, either:

- (i) to make such filing as a rating organization filing;
- (ii) to make such filing on an agency basis solely on behalf of the requesting member; or
- (iii) to decline the request of such member; and

(B) excluding from membership any insurer which elects to make any filing wholly independently of the rating organization.

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(i) Under such rules as the commissioner shall adopt, the commissioner may, by written order, suspend or modify the requirement of filing as to any kinds of insurance, or subdivision, or classes of risk, or parts or combinations of any of the foregoing, the rates for which can not practicably be filed before they are used. Such orders and rules shall be made known to insurers and rating organizations affected thereby. The commissioner may make such examination as the commissioner may deem advisable to ascertain whether any rates affected by such order are excessive, inadequate, or unfairly discriminatory.

(j) Upon the written application of the insured, stating the insured's reasons therefor, filed with the commissioner, a rate in excess of that provided by a filing otherwise applicable may be used on any specific risk.

(k) An insurer shall not make or issue a policy or contract except in accordance with filings which are in effect for that insurer or in accordance with the provisions of this chapter. Subject to the provisions of section 6 of this chapter, any rates, rating plans, rules, classifications, or systems in effect on May 31, 1967, shall be continued in effect until withdrawn by the insurer or rating organization which filed them.

(l) The commissioner shall have the right to make an investigation and to examine the pertinent files and records of any insurer, insurance producer, or insured in order to ascertain compliance with any filing for rate or coverage which is in effect. The commissioner shall have the right to set up procedures necessary to eliminate noncompliance, whether on an individual policy, or because of a system of applying charges or discounts which results in failure to comply with such filing.

(m) The department may adopt rules to

- (1) implement the exemption under subsection (b);
- (2) impose disclosure requirements the commissioner determines are necessary to adequately protect exempt commercial policyholders; and
- (3) establish the form of the report required by subsection (n).

(n) Each insurer who issues insurance to an exempt commercial policyholder shall file an annual report with the department by February 1 of each year. The annual report may not disclose the identity of an exempt commercial policyholder and must include only the following information regarding each exempt commercial policyholder:

- (1) The account number, policy number, or other number used by the insurer to identify the insured.

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(2) The amount of aggregate annual commercial premium.

(3) The inception date and expiration date of commercial insurance coverage provided by the insurer.

(4) The criteria in section 2.5(a)(3) of this chapter used to establish the entity as an exempt commercial policyholder.

(o) The annual report filed under subsection (n) must be accompanied by the fee prescribed by IC 27-1-3-15(e). For purposes of calculating the required fee, each policy purchased by an exempt commercial policyholder shall be considered a product filing under IC 27-1-3-15(e).

(m) This subsection applies to an insurer that issues a commercial property or commercial casualty insurance policy to a commercial policyholder. Not more than thirty (30) days after the insurer begins using a commercial property or commercial casualty insurance:

(1) rate;

(2) rating plan;

(3) manual of classifications; or

(4) modification of an item specified in subdivision (1), (2), or (3);

the insurer shall file with the department, for informational purposes only, the item specified in subdivision (1), (2), (3), or (4). Use of an item specified in subdivision (1), (2), (3), or (4) is not conditioned on review or approval by the department. This subsection does not require filing of an individual policy rate if the original manuals, rates, and rules for the insurance plan or program to which the individual policy conforms has been filed with the department.

SECTION 5. [EFFECTIVE JULY 1, 2006] IC 27-1-20-34 IS REPEALED."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 162 as introduced.)

PAUL, Chairperson

Committee Vote: Yeas 7, Nays 0.

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